S.B. CR.MISC.2nd BAIL APPLICATION NO.3854/2006.

Jagannath
Versus
State

Date of Order:- 14/7/2006.

HON'BLE MR.JUSTICE HARBANS LAL

Mr. H.K. Sharma for the petitioner.
Mr. Arun Sharma P.P. for the State.

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This second bail application under Section 439 Cr.P.C. has been filed on behalf of petitioner Jagannath against whom charge-sheet for the offences under Sections 307 IPC and 3/25 of the Arms Act read with Section 11 of the Dacoity Affected Areas Act, 1986 has been filed.

His learned counsel has contended that the injured has not received any visible injury. Therefore, the offences alleged will fall under the clause providing for imprisonment of either description for a term which may extend to ten years and shall also be liable to fine. He has contended that this case falls within the ambit of Section 67(2)(a)(ii) Cr.P.C. and challan having been filed after the expiry of 60 days from the date of arrest of the accused, the petitioner is entitled to be released on bail under the provisions of Sections 167(2)(a)(ii) Cr.P.C. In this regard he has referred to **Rajeev Choudhary Vs. State (N.C.T.) of Delhi - 2001 Cr.L.J. (S.C.) 2941 and Rajveer Vs. State- 2005 W.L.C. (Raj.) 30**.

Learned Public Prosecutor also could not controvert the contentions of the learned counsel for the petitioner. He has, however, tried to support the order of the learned court below refusing to grant bail to the petitioner under Section 167(2)(a)(ii) Cr.P.C.

I have carefully considered the rival submissions made at the bar and have also perused the relevant documents placed before me.

It is not in dispute that the petitioner was arrested on 2/3/2006 and the charge-sheet for the offences under Sections 307 IPC and Section 3/25 of the Arms Act read with Section 11 of the Dacoity Affected Areas Act, 1986 has been filed against him after the expiry of the period of 60 days from the date of his arrest. It is also not in dispute that the injured did not receive any injury.

Keeping in view the law laid down by this court as well as the Hon'ble Apex Court in the aforementioned authorities, it appears to be a case fit for grant of bail to the petitioner both on merits as well as under the provisions of Section 167(2)(a)(ii) Cr.P.C.

In the result, this second bail application under Section 439 Cr.P.C. is allowed and it is directed that petitioner Jagannath S/o Badri shall be released on bail in F.I.R. No.120/2006 P.S. Karauli District Karauli on his furnishing a personal bond in the sum of Rs.20,000/- together with one surety in the like amount to the satisfaction of the concerned court undertaking to appear before that court on all dates of hearing until conclusion of the trial.

(HARBANS LAL), J.

BBL